

MIGUEL HERNANDEZ,
Plaintiff,
vs.
BC SERVICES, INC.,
Defendant.

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Case No. 18-cv-1946-SMY-GCS

On December 28, 2018, BC Services moved to strike the amended complaint, arguing that it was improperly filed because it was filed without leave and not in accordance with the procedures laid out in the applicable Local Rules. (Doc. 12). On January 3, 2019, Hernandez filed both a motion for leave to file an amended complaint (Doc. 13) and a response to the motion to strike (Doc. 14). The response acknowledged that Plaintiff's counsel erred by filing the amended complaint (Doc. 11)

without leave of Court and explained that the newly-filed motion for leave to file an amended complaint (Doc. 13) complies with the applicable Local Rules.

Defendant is correct, as Plaintiff acknowledges, that the amended complaint was filed improperly, and the amended complaint (Doc. 11) shall be stricken. Defendant has not responded in opposition to Plaintiff's January 3, 2019 motion for leave to file an amended complaint. Federal Rule of Civil Procedure 15 governs amended complaints. A complaint may be amended as a matter of course within 21 days after serving it, or, "if the pleading is one to which a responsive pleading is required, 21 days after service of a responsive pleading." Fed. R. Civ. P. 15(a)(1). In all other cases, a party may only amend its pleading with written consent of the opposing party or with leave of Court. *See* Fed. R. Civ. P. 15(a)(2). Leave, however, should be given freely when justice so requires. Here, the Court **FINDS** that justice requires granting Hernandez leave to amend his complaint.

Accordingly, Defendant BC Services, Inc.'s motion to strike the amended complaint (Doc. 12) is **GRANTED**. The Clerk of Court shall strike the amended complaint (Doc. 11). Plaintiff Miguel Hernandez's motion for leave to file an amended complaint (Doc. 13) is **GRANTED**. Hernandez shall file his amended complaint by January 31, 2019.

IT IS SO ORDERED.

Dated: January 24, 2019.

GILBERT C. SISON
United States Magistrate Judge